

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

United States of America,

Case No. 16-cr-257(1) (DWF/TNL)

Plaintiff,

v.

ORDER

Sumalee Intarathong,

Defendant.

This matter comes before the Court on Defendant Sumalee Intarathong's Motion for Continuance (ECF No. 885). Defendant has also filed a Statement of Facts in Support of Exclusion of Time Under the Speedy Trial Act (ECF No. 887). Noting that this case was previously designated as complex and that discovery is voluminous, Defendant requests a 60-day extension of time as “[c]ounsel has not been able to review the discovery in this case to the extent necessary to determine what pre-trial motions need to be filed.” (ECF No. 885 at 1; *see* ECF No. 81.) The Government has no objection to the requested extension. (ECF No. 885 at 1.)

Additionally, beginning on March 13, 2020, and continuing thereafter, the Honorable John R. Tunheim, Chief District Judge for the United States District Court for the District of Minnesota, has issued a series of General Orders in connection with the COVID-19 pandemic, addressing, among other things, criminal proceedings and trials.¹

¹ All General Orders related to the COVID-19 pandemic may be found on the Court's website at <https://www.mnd.uscourts.gov/coronavirus-covid-19-guidance>.

On February 12, 2021, Chief Judge Tunheim entered General Order No. 26, which continues all in-person hearings, unless the presiding judge determines that an in-person hearing is necessary, through May 2, 2021, and orders that no new criminal trial may commence before May 3, 2021. *See generally In re: Updated Guidance to Court Operations Under the Exigent Circumstances Created by COVID-19*, Gen. Order No. 26 (D. Minn. Feb. 12, 2021).

General Order No. 26 continues to encourage the use of videoconferencing in criminal proceedings and states that, with the defendant's consent, criminal proceedings will be conducted by videoconferencing, or telephone conferencing if videoconferencing is not reasonably available.² General Order No. 26 further provides that the presiding judge will enter orders in individual cases to extend deadlines and exclude time under the Speedy Trial Act to address delays attributable to COVID-19. **Accordingly, should Defendant file pretrial motions, counsel shall also file a letter indicating whether Defendant consents to a motions hearing by videoconference.**

Pursuant to 18 U.S.C. § 3161(h), this Court finds that the ends of justice served by granting a continuance outweigh the best interests of the public and Defendant in a speedy trial and such continuance is necessary to provide Defendant and her counsel reasonable

² See also General Order No. 19, which went into effect on September 26, 2020, and extended the Court's authorization to conduct certain criminal proceedings via video or telephone conference pursuant to the CARES Act "[b]ecause the emergency created by the COVID-19 outbreak continues to materially affect the functioning of court operations in the District of Minnesota," *In re: Updated Guidance to Court Operations Under the Exigent Circumstances Created by COVID-19*, Gen. Order No. 19 (D. Minn. Sept. 25, 2020); General Order No. 24, which went into effect on December 25, 2020, vacated General Order No. 19, and extended the Court's authorization to conduct certain criminal proceedings via video or telephone conference pursuant to the CARES Act "[b]ecause the emergency created by the COVID-19 outbreak continues to materially affect the functioning of court operations in the District of Minnesota." *In re: Updated Guidance to Court Operations Under the Exigent Circumstances Created by COVID-19*, Gen. Order No. 24 (D. Minn. Dec. 22, 2020).

time necessary for effective preparation and to make efficient use of the parties' resources.

Based on all the files, records, and proceedings herein, **IT IS HEREBY ORDERED** that:

1. Defendant's Motion for Continuance (ECF No. 885) is **GRANTED**.
2. The period of time from **March 2 through June 8, 2021**, shall be excluded from Speedy Trial Act computations in this case.
3. All motions in the above-entitled case shall be filed and served consistent with Federal Rules of Criminal Procedure 12(b) and 47 on or before **May 10, 2021**. D. Minn. LR 12.1(c)(1). Two courtesy copies of all motions and responses shall be delivered directly to the chambers of Magistrate Judge Leung.
4. **Should Defendant file pretrial motions, counsel shall also file a letter on or before May 10, 2021, indicating whether Defendant consents to a motions hearing by videoconference.**
5. Counsel shall electronically file a letter on or before **May 10, 2021**, if no motions will be filed and there is no need for hearing.
6. All responses to motions shall be filed by **May 24, 2021**. D. Minn. LR 12.1(c)(2).
7. Any Notice of Intent to Call Witnesses shall be filed by **May 24, 2021**. D. Minn. LR. 12.1(c)(3)(A).
8. Any Responsive Notice of Intent to Call Witnesses shall be filed by **May 27, 2021**. D. Minn. LR 12.1(c)(3)(B).
9. A motions hearing will be held pursuant to Federal Rules of Criminal Procedure 12(c) where:

- a. The government makes timely disclosures and a defendant pleads particularized matters for which an evidentiary hearing is necessary; or
- b. Oral argument is requested by either party in its motion, objection or response pleadings.

10. **If required, the motions hearing shall take place before the undersigned on June 8, 2021, at 1:00 p.m., in Courtroom 9W, Diana E. Murphy U.S. Courthouse, 300 South Fourth Street, Minneapolis, Minnesota. D. Minn. LR 12.1(d).**

11. **TRIAL: The trial date, and other related dates, will be rescheduled at a date and time to be determined before District Judge Donovan W. Frank in Courtroom 7C, Warren E. Burger Federal Building and U.S. Courthouse, 316 North Robert Street, ST. PAUL, Minnesota 55101.** Counsel must contact the Courtroom Deputy for District Judge Frank to confirm the new trial date.

Dated: March 10, 2021

s/Tony N. Leung
TONY N. LEUNG
United States Magistrate Judge
District of Minnesota

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